

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIO E. MARTINEZ-MOCTEZUMA
a/k/a MARIO E. MARTINEZ-
MONTEZUMA,

Defendant.

Case No. CR03-5215RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion to File Late Notice of Appeal [Dkt. #124]. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

The defendant was sentenced on October 16, 2003 by the Honorable Jack E. Tanner and judgment was entered that same day. He now seeks to file a Notice of Appeal of that judgment over five years later alleging that he informed his counsel that he wanted to appeal, and that his counsel failed to file the Notice of Appeal despite assurances that he would do so. Federal Rule of Appellate Procedure 4(b) requires that a Notice of Appeal be filed within ten (10) days of entry of judgment. If good cause or excusable neglect is shown, the District Court may extend that time up to thirty (30) days. Fed. R. App. P. 4(b)(4). This Court "lacks the authority to extend this period by more than thirty days." *United States v. Clark*, 984 F.2d 319, 320 (9th Cir. 1993); *see also United States v. Green*, 89 F.3d 657, 659-60 (9th Cir. 1996). Therefore, Defendant's Motion to File Late Notice of Appeal is **DENIED**.

